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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 DIEGO M. RODRIQUEZ,

11 Plaintiff,

12 v.

13 MICHAEL J. ASTRUE, Commissioner of
Social Security

14 Defendant.

Case No. C09-5241BHS-KLS

ORDER DENYING PLAINTIFF'S
MOTION TO HAVE THIS CASE
ASSIGNED TO UNITED STATES
DISTRICT COURT JUDGE

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16 This matter comes before the Court on plaintiff's filing of a motion to have this matter
17 assigned to a district court judge. (Dkt. #4). After reviewing the motion and the remainder of the
18 record, the Court hereby finds and orders as follows:

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20 On April 23, 2009, plaintiff filed complaint in this matter seeking a writ of *mandamus* to
21 set aside a decision of the Social Security Administration concerning what appears to have been
22 a recoupment of a disability benefits overpayment. (Dkt. #2). At the time of filing, the civil
23 cover sheet accompanying the complaint was stamped by the Clerk with the cause number C09-
24 5241KLS. (Dkt. #2-3). On April 27, 2009, plaintiff filed his motion to have this case assigned to
25 a district court judge. On April 28, 2009, the Clerk issued a minute order, assigning the case to
26 the Honorable Benjamin J. Settle, but also referring it back to the undersigned pursuant to the
Order Denying Motion to Reassign - 1

1 Court's General Order to "review the administrative record, and to submit proposed findings and
2 conclusions, and recommended disposition" in accordance with Federal Rule of Civil Procedure
3 ("Fed. R. Civ. P.") 72(b) and Local Rule MJR 4(c).

4 Accordingly, because this case now has been assigned to a district court judge, plaintiff's
5 current motion (Dkt. #4) hereby is DENIED as being moot. Nor is there any constitutional issue
6 in regard to the referral of this case back to the undersigned magistrate judge for the purposes set
7 forth above. Pursuant to 28 U.S.C. § 636(b)(1)(A), a district judge may "designate a magistrate
8 judge to hear and determine any pretrial matter pending before the court," and, pursuant to 28
9 U.S.C. § 636(b)(1)(B), "designate a magistrate judge to conduct hearings, including evidentiary
10 hearings, and to submit to a judge of the court proposed findings of fact and recommendations
11 for the disposition, by a judge of the court, of any motion excepted in" 28 U.S.C. § 636(b)(1)(A),
12 including motions for summary judgment and motions to dismiss for failure to state a claim upon
13 which relief can be granted.
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16 The United States Supreme Court expressly has held these designations of authority from
17 a district judge to a magistrate judge to be constitutional. See Matthews v. Weber, 423 U.S. 261
18 (1976). In so holding, the Supreme Court noted that Congress, in enacting 28 U.S.C. § 636(b),
19 addressed various constitutional concerns some had regarding that legislation, by restricting "the
20 range of matters that may be referred [by a district court judge] to a magistrate [judge] to those
21 where referral" was "not inconsistent with the Constitution and laws of the United States," and
22 by making "it quite clear that the magistrate [judge] acts 'under the supervision of the district
23 judges' when he [or she] accepts a referral, and that authority for making final decisions remains
24 at all times with the district judge." Id. At 269-70 (citations omitted). Accordingly, this case is
25 properly before the undersigned magistrate judge.
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1 The Clerk is directed to send a copy of this Order to plaintiff.

2 DATED this 1st day of May, 2009.

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6 Karen L. Strombom
7 United States Magistrate Judge
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